

ORIGINAL

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DISTRICT COURT

SEP 12 2005

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

David Lochabay  
Office of the Attorney General  
2d. Floor, Juan A. Sablan Memorial Bldg.  
Caller Box 10007, CHRB  
Saipan, MP 96950  
Tel: (670) 664-2341  
Fax: (670) 664-2349  
attorneygeneral@saipan.com

Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS**

**STEVEN PARKS,**

**Plaintiff,**

**VS.**

**EDWARD CAMACHO, in his official and  
personal capacities; DEPARTMENT OF  
PUBLIC SAFETY, ELIAS SARALU,  
and DOES 1-10,**

**Defendants.**

**CIVIL ACTION NO. 04-0013**

**DEFENDANTS' MOTION FOR  
RECONSIDERATION AND/OR  
TO ALTER OR AMEND AWARD  
OF ATTORNEY'S FEES AND COSTS**

**COMES NOW ALL DEFENDANTS** in the above styled and numbered cause, who/which would present to the Court this Motion to Alter or Amend the Award of Attorney's Fees and Costs entered by the Court on September 1, 2005.

As grounds for the Motion, Defendants would show the Court the following:

**I. The Motion should be Reargued**

The Court should vacate the Order of September 1, 2005 and order the Motion for Attorney Fees reargued. Due to a typhoon and unavoidable equipment malfunction, Defendants' attorney did not attend the hearing on the Motion for Attorney's Fees. Such non-attendance at the hearing was completely inadvertent and Defendants should be allowed their day in Court as to this matter. See Declaration of David Lochabay, attached.

**II. Plaintiff Agreed to Accept Less than the Court Awarded**

In Plaintiff's Reply to Defendant's Opposition to Motion for Attorney Fees, at p. 8, ll 25-28, and p. 9, ll 1-4, Plaintiff states:

"Counsel's hourly fee is customarily \$240.00. Plaintiff has submitted

two affidavit (sic) stating this is generally reasonable. The government refers to Ms. Rayphand's hourly rate of \$175.00 as reasonable. Mr. Parks notes that Ms. Rayphand, on behalf of NMPASI, refused to take Mr. Parks case. Nonetheless, if the Court wishes to adopt an hourly rate of \$175.00 for Plaintiff's primary counsel (Mr. Banes), Mr. Parks will not object. Similarly, if the Court wished to reduce Mr. Bozman's fees to \$150.00 as he has less experience and Mr. Ouslander's and Ms. Chang's fees to \$125.00 and Ms. Sabangan to \$100.00, that would be acceptable as well."

Plaintiff having agreed that the above reduced rates are fair and reasonable, the Court should have awarded attorney's fees based on the reduced, reasonable rates.

Attorney's Fees at those rates would be:

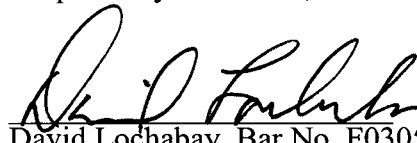
Attorney Robert O'Connor, 1.15 hrs. @ \$280 per hr. . . . .	\$322.00
Attorney David Banes, 50.6 hrs. @ \$175 per hr. . . . .	\$8,855.00
Attorney Joseph Horey, 1.0 hrs. @ \$175 per hr. . . . .	\$175.00
Attorney Eric Bozman, 39.92 hrs. @ \$150 per hr. . . . .	\$5,988.00
Law clerk Catherine Chang-Sanders, 9.2 hrs. @ \$125 . . .	\$1,150.00
Paralegal Auralou Sabangan, 9.75 hrs. @ \$100 per hr. . .	\$975.00
Law Clerk Jacob Ouslander, 29.35 hrs. @ \$125 per hr. .	<u>\$3,668.75</u>
Total Fees. . . . .	\$21,133.75

The Court had also awarded costs in the amount of \$167.31, with which Defendant does not quarrel. The total award of fees and costs then, would be \$21,301.06.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the Court grant this Motion, vacate the Order of September 1, 2005, and order the Motion reargued.

In the alternative and without waiving the foregoing, Defendants pray that the Court reduce the amount of fees awarded as shown above.

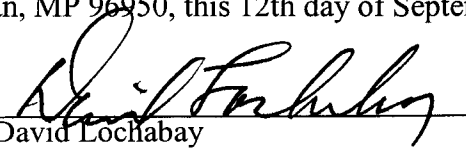
Respectfully submitted,



David Lochabay, Bar No. F0307  
Asst. Attorney General  
Office of the Attorney General  
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been hand delivered to the offices of Mr. David Banes, Esq., O'Connor Berman Dotts & Banes, attorneys for Plaintiff, at 2nd Floor, Nauru Bldg., P. O. Box 501969, Susupe, Saipan, MP 96950, this 12th day of September, 2005.

  
David Lochabay



1 would not start. The staff member in charge of computers was not in the office. I obtained his telephone  
2 number and called him. He was at home with no electricity and said he was not coming in until after  
3 noon. I then obtained some screwdrivers and opened the case to my computer, hoping I might see  
4 something obvious, such as a reset button on the motor. As I was quizzically looking at the inside of  
5 the computer, it started. I reinstalled the case and checked my calendar. On it was the hearing on  
6 attorney's fees. By this time, it was about 10:00 a.m. I immediately called the Court and spoke with Ms.  
7 Faye Crozat. She informed me that Court was still in session. I informed her I would be right down.  
8 I went home, put on a suit and tie, and drove to the court building. By the time I got there it was about  
9 10:30 a.m. Court had concluded for the day. Judge Munson was gracious enough to allow me to explain  
10 to him the reasons for missing the hearing, which I did. There was no discussion of the case on the  
11 merits.

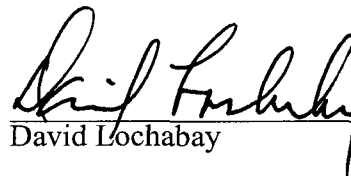
12 "I keep close watch on my calendar. I was well aware of the date and time for this hearing. With  
13 the typhoon activities of the day before, I simply forgot.

14 "My clients deserve better that to have an award of attorneys fees and costs nearly 10 times the  
15 size of the recovery in this case rendered against them without having participated in oral argument in  
16 the only hearing of any kind held in this case.

17 "Further, Declarant saith not."

18 "I swear under penalty of perjury that the above and foregoing is true and correct, that I have  
19 personal knowledge of the facts contained above, and that I execute this Declaration on the island of  
20 Saipan, Commonwealth of the Northern Mariana Islands, this 6th day of September, 2005.

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David Lochabay